
State Water Resources Control Board

TO: All Interested Parties

FROM: State Water Resources Control Board

DATE: May 25, 2012

SUBJECT: DISCLOSURE OF COMMUNICATIONS REGARDING DRAFT NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) GENERAL PERMIT FOR STORM WATER DISCHARGES FROM SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS (DRAFT SMALL MS4 PERMIT)

The California Stormwater Quality Association (CASQA) contacted State Water Resources Control Board (State Water Board) members in November 2011 and in January 2012 to discuss the Ninth Circuit Court of Appeal's decision in *NRDC v. County of Los Angeles* (2011) 673 F.3d 880 and the court's interpretation of the receiving water limitations language in the Los Angeles Phase I municipal separate storm sewer system permit.

On November 21, 2011, Board Chair Charles Hoppin met with CASQA representatives Geoff Brosseau and Mack Walker, with Richard Boon participating by phone.

On November 21, 2011, Board Member Tam Doduc, in a separate meeting, met with Mr. Brosseau and Mr. Walker, with Mr. Boon participating by phone.

On January 25, 2012, Board Vice Chair Frances Spivy-Weber participated in a conference call with Mr. Brosseau, Mr. Boon, and Mr. Walker.

During these meetings and conference call, the CASQA representatives, on behalf of CASQA's members, expressed concern about the impact of the Ninth Circuit Court of Appeals decision on municipalities subject to similar receiving water limitations in permits issued by the State Water Board and regional water quality control boards. On each occasion, Board members responded that CASQA's comments would be carefully considered.

CASQA's communications with the State Water Board members touched on an issue that is within the scope of the proceeding for the Draft Small MS4 Permit. CASQA has submitted two written letters to the State Water Board dated December 16, 2011, and February 21, 2012, that are being made part of the administrative record of the Draft Small MS4 Permit and that summarize the same issues discussed in the meetings and conference call listed above.

Although the discussions addressed receiving water limitations provisions in storm water permits broadly and did not focus on the Draft Small MS4 Permit specifically, and although no

issues were discussed beyond what is raised in CASQA's written letters to the Board, in an abundance of caution, the communications are hereby disclosed as ex parte communications, pursuant to Government Code section 11430.50.

A copy of this memorandum shall be included in the record of the proceeding for the Small MS4 Permit.

cc: **[All via email only]**
Charles R. Hoppin, EXEC
Tam M. Doduc, EXEC
Frances Spivy-Weber, EXEC
Tom Howard, EXEC
Jonathan Bishop, EXEC
Vicky Whitney, DWQ
Bruce Fujimoto, OCC
Michael Lauffer, OCC
Philip Wyels, OCC
Emel Wadhvani, OCC
Richard Boon, CASQA
Geoff Brosseau, CASQA